

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF MASSACHUSETTS

WORCESTER, ss.

In re: ) Chapter 7  
WESTBOROUGH SPE LLC, ) Case No. 23-40709-CJP  
Debtor. )  
\_\_\_\_\_  
)

EMERGENCY MOTION FOR INTERIM DISTRIBUTION PENDING APPEAL AND  
RECONSIDERATION OF ORDER DATED 8/14/2024

**Lolonyon Akouete, Creditor**, respectfully submits this Emergency Motion for Interim Distribution Pending Appeal and Reconsideration of the Court's Order dated August 14, 2024 (Dkt #255), which denied the Motion for Leave to Appeal Interlocutory Order under U.S.C. 158(a)(3). In support of this motion, the movant states as follows:

**I. INTRODUCTION**

1. The movant is a creditor in the above-captioned case and is currently facing severe financial hardship, including a bank balance of only \$245.68 and the movant stepmother just got evicted today. Immediate relief is necessary to prevent further irreparable harm.
2. On July 25, 2024, the Bankruptcy Court denied the movant's Motion for Interim Distribution and Request for Expedited Determination (Dkt #204), deeming the motion premature. The movant has since filed an appeal with the United States Bankruptcy Appellate Panel for the First Circuit (BAP No. 24-0016).
3. The Court's Order dated August 14, 2024 (Dkt #255), denied the movant's Motion for Leave to Appeal Interlocutory Order under U.S.C. 158(a)(3), citing the discretion of the trustee in the timing of claim objections and finding no impairment of legal rights or irreparable harm justifying an interlocutory appeal.
4. This Emergency Motion requests the Court to reconsider its Order dated August 14, 2024, and to grant an interim distribution pending the resolution of the appeal, due to the significant and immediate financial hardship faced by the movant.

**II. JURISDICTION AND VENUE**

5. This Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334. Venue is proper in this district under 28 U.S.C. §§ 1408 and 1409.
6. The statutory predicates for the relief requested herein are 11 U.S.C. § 105(a) and Federal Rule of Bankruptcy Procedure 9024, which allows the Court to reconsider its prior orders.

**III. FACTUAL BACKGROUND**

7. The bankruptcy estate has been open since October 11, 2023, and the Trustee has confirmed receipt of \$1,293,646.83 in unclaimed funds from California. Additional funds are expected from the sale of the property at 231 Turnpike Road, totaling \$2,875,000.

8. The claims bar date has passed, and the estate holds sufficient funds to support an interim distribution to creditors without prejudicing the resolution of disputed claims.
9. Despite this, the Court denied the movant's Motion for Interim Distribution as premature and denied the Motion for Leave to Appeal, citing the discretion of the trustee and the prematurity of the movant's claim.

#### **IV. RELIEF REQUESTED**

10. The movant respectfully requests that this Court:
  - a. Reconsider its Order dated August 14, 2024 (Dkt #255), which denied the Motion for Leave to Appeal Interlocutory Order under U.S.C. 158(a)(3).
  - b. Grant an interim distribution to the movant pending the resolution of the appeal, based on the severe financial hardship and the availability of sufficient funds in the estate.
  - c. Alternatively, grant any other relief the Court deems just and appropriate under the circumstances.

#### **V. LEGAL ARGUMENT**

11. **Reconsideration of Order Denying Leave to Appeal:** Federal Rule of Bankruptcy Procedure 9024, which incorporates Federal Rule of Civil Procedure 60, allows the Court to reconsider its prior orders. The movant respectfully submits that the Court's determination of prematurity does not fully consider the immediate financial harm being suffered by the movant. Given the dire circumstances, reconsideration is warranted to prevent irreparable harm.
12. **Emergency Interim Distribution:** Under 11 U.S.C. § 105(a), the Court has broad equitable powers to issue orders necessary to carry out the provisions of the Bankruptcy Code. Interim distributions are common in bankruptcy proceedings when there are sufficient funds to do so without endangering the resolution of disputed claims. The movant's financial hardship and the availability of funds in the estate justify an interim distribution to avoid further harm.

#### **VI. CONCLUSION**

13. For the reasons stated above, Creditor/Appellant Lolonyon Akouete respectfully requests that this Honorable Court:
  - a. Reconsider its Order dated August 14, 2024, denying the Motion for Leave to Appeal Interlocutory Order;
  - b. Grant an interim distribution to the movant pending the resolution of the appeal;
  - c. Grant such other and further relief as the Court deems just and proper.

DATED: August 14, 2024, Respectfully submitted: By creditor,



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CERTIFICATE OF SERVICE

I, Lolonyon Akouete, hereby certify that the above document is served by email and mailing a copy of the same, first-class mail, to the following:

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